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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPL. 1789/2020**

NIKKI @ VIKAS

..... Petitioner/Applicant

Through: Mr. Puneet Mittal, Senior Advocate
with Mr. Abhishumat Gupta,
Advocate and Mr. R.P. Singh,
Advocate.

versus

STATE

.... Respondent

Through: Ms. Neelam Sharma, APP for the
State with Ms. Sunita Mann, IO.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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05.08.2020

The applicant is an undertrial in case FIR No.187/2017 registered under sections 302/452/120-B/34 IPC and 25/27/54/59 of the Arms Act 1954 at PS: Malviya Nagar.

2. By way of the present application, the applicant seeks interim bail based upon the recommendations of the High Powered Committee appointed by the Delhi High Court pursuant to the directions issued by the Supreme Court in *suo motu* proceedings in W.P. (C) No.01/2020.

3. Status reports dated 24.07.2020 and 01.08.2020 have been filed in the matter.

4. Nominal roll dated 22.07.2020 has also been received from the Jail Superintendent.

5. Mr. Puneet Mittal, learned senior counsel appearing for the applicant submits that there are 04 accused in the matter; that co-accused Afroz Khan @ Chidda has already been granted interim bail *vidé* order dated 27.07.2020 in Bail Appl. No.1739/2020 by this court based upon the recommendations of the High Powered Committee as recorded in its Minutes of Meeting dated 18.05.2020; that as seen from the nominal roll, the applicant has been in judicial custody for more than 02 years, and apart from one punishment dated 22.06.2019, his jail conduct has been 'satisfactory'. Mr. Mittal further draws attention to conduct report dated 06.07.2020 furnished by the Jail Superintendent to the court of the learned ASJ, where, it is again recorded that the applicant's conduct has remained 'Good' for the last one year.

6. Mr. Mittal relies upon the recommendations made by the High Powered Committee in Minutes of Meeting dated 18.05.2020, which say that in order to prevent spread of the coronavirus pandemic and to ensure social distancing amongst prisoners, the Committee is of the opinion that the criteria for grant of interim bail need to be further relaxed to give effect to the directions of the Supreme Court; and that in that context, the Committee has recommended *inter alia* that undertrial in custody for the offence under section 302 IPC, who have been in jail for more than 02 years and have no involvement in any other case, may be considered for grant of interim bail for 45 days.

7. Ms. Neelam Sharma, learned APP for the State opposes grant of interim bail on the ground that the applicant is the main accused in the

matter; and that the role imputed to him is of actually firing the weapon upon the deceased. She of course does not dispute the recommendations of the High Powered Committee as aforesaid, except to submit that the recommendations are not mandatory and do not impinge upon the discretion of the court to grant or refuse bail.

8. Upon a conspectus of the facts and circumstances, including that co-accused Afroz Khan @ Chidda has also been granted interim bail applying the recommendations of the High Powered Committee as contained in its Minutes of Meeting dated 18.05.2020, this court is persuaded to grant to the applicant *interim bail* for a period of 45 days from the date of his release, subject to the following conditions:

- (a) The applicant shall furnish a personal bond in the sum of Rs.30,000/- with 01 surety in the like amount from a family member, to the satisfaction of the Jail Superintendent;
- (b) The applicant shall not leave the State of Delhi without permission of the court and shall *ordinarily* reside at the address mentioned in this application;
- (c) The applicant shall present himself before the Investigating Officer every Saturday between 11 a.m. and 11:30 a.m. to mark his presence; and if the Investigating Officer is not available, then before the SHO PS : Malviya Nagar. However he will not be kept waiting for longer than one hour for this purpose;
- (d) The applicant shall furnish to the Investigating Officer/SHO a cell phone number on which the applicant may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
- (e) If the applicant has a passport, he shall also surrender the same to the Jail Superintendent;

- (f) The applicant shall not contact, nor visit, nor offer any inducement, threat or promise to the first informant/complainant or to any of the prosecution witnesses. The applicant shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending matter ;
- (g) Upon expiry of the period of interim bail, the applicant shall surrender before the concerned Jail Superintendent.

- 9. Nothing in this order shall be construed as an expression on the merits of the pending matter.
- 10. The bail application stands disposed of.
- 11. Other pending applications, if any, also stand disposed of.
- 12. A copy of this order be sent to the concerned Jail Superintendent.

ANUP JAIRAM BHAMBHANI, J.

AUGUST 05, 2020

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